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NO. 336 0002

CERTIFICATE OF FACSIMILE TRANSMISSION

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Date:

December 3, 2003

By:

William F. Gaddino, Registration No. 97,136

Docket No.: 4380-102 (formerly 045112-0085)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED
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DEC 03 2003

In re Application of)

Steven M. BESSETTE)

Serial No.: 09/604,158)

Group Art Unit: 1651

Filed: June 27, 2000)

Examiner: Patricia Patten

For: PESTICIDAL COMPOSITIONS)
 CONTAINING PLANT ESSENTIAL OILS)
 AGAINST DUST MITES)

AMENDMENT AND REPLY

Honorable Commissioner for Patents
 Washington, DC 20231

Dear Sir:

This paper is being filed in response to an Office Action dated 03 June 2003. Please grant a three-month extension of time for entry of this communication. Please charge the small entity extension of time fee to Deposit Account No. 14-1140.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

AU Adjustment date: 02/06/2004 SDIRETA1
 12 30/2003 DTHOMAS 00000004 141140 09604158
 01 FC:2203 473.00 CR

Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22201-4714

January 29, 2004

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4057
EMAIL: WFG@NIXONVAN.COM

VIA FACSIMILE**MAIL STOP 16**

Director of the U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Subject: REQUEST FOR REFUND TO DEPOSIT ACCOUNT

Deposit Account No. 14-1140
Statement Date: January 5, 2004
Date Posted: December 15, 2003
(and December 30, 2003)
SEQ No.: 3 (and 4)
Fee Code: 2253
USPTO Ref.: 09/604,158
Our Ref.: 4380-102

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated January 5, 2004, (copy attached), we believe there is a fee related error therein, which has resulted in a charge to our Deposit Account that appears to be unwarranted. Please refer to the following explanation and issue a refund as soon as possible.

In a Response to the Office Action dated June 3, 2003 (copy attached), we authorized the Small Entity Extension of Time fee to be charged to our Deposit Account. The fee, however, was charged twice to our Deposit Account, once on December 15, 2003 and again on December 30, 2003. A prompt refund is respectfully requested for \$475.00.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.By: 

Willem F. Gadiano

WFG:ewm
Enclosures

Nixon & Vanderhye PC.

ATTORNEYS AT LAW

8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22201-4714

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4057

FACSIMILE COVER SHEET
PLEASE DELIVER IMMEDIATELY!!!!

Our Ref.: 4380-102

Your Ref.: 09/604,158

Date: January 29, 2004

To: Director of the U.S. Patent & Trademark Office c/o Refunds
Branch

Firm: United States Patent & Trademark Office

Facsimile No.: 703-308-5077

From: Willem F. Gadiano

Number of Pages (including cover sheet): 8

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ewm

FACSIMILE OPERATOR

ATTACHMENT/S:

1. Request for Refund to Deposit Account (1 page);
2. Copy of 1/5/04 Deposit Account Statement (2 pages); and
3. Copy of Response to Office Action filed 12/03/03 (4 pages).

MESSAGE: PLEASE SEE ATTACHED.

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally privileged. This information is only intended for the use of the individual or entity named above. IF YOU ARE NOT THE NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR TAKING OF THIS INFORMATION FOR ANY USE WHATSOEVER IS STRICTLY PROHIBITED. If you have received this facsimile in error, please immediately contact us by telephone to arrange for return of the original documents to us.

#812840 v1 - Refund fax cover

Deposit Account Statement

Page 1 of 2


**United States
Patent and
Trademark Office**

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Deposit Account Statement

Requested Statement Month:

December 2003

Deposit Account Number:

141140

Name:

NIXON & VANDERHYE P.C.

Attention:

LENARD MITCHARD

Address:

1100 N GLEBE ROAD

City:

ARLINGTON

State:

VA

Zip:

22201-4714

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
12/01	4	10088026	124-933	ARC 1453	\$1,330.00	\$13,483.98
12/03	1	10041681	900-411	HWB 1251	\$110.00	\$13,373.98
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12/03	5	10158135	1767-96	1201	\$86.00	\$12,245.98
12/03	86	10468282	LSN 36-1712	1611	\$160.00	\$12,085.98
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12/15	2	10405235	4175-3	2202	\$117.00	\$21,831.98
12/15	3	09604158	4380-102	WFE 2253	\$475.00	\$21,356.98
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Deposit Account Statement

12/16 14	10207794	MJS	1767-102	1201	\$430.00	\$19,951.98
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12/16 215	09724908	MEN	723-987	1201	\$172.00	\$17,609.98
12/17 1	09328420	SCS	550-144	1253	\$950.00	\$16,659.98
12/17 3	10467929	ARC	2491-29	1615	\$216.00	\$16,443.98
12/17 4	09604157	4380-98 WFG		1252	\$420.00	\$16,023.98
12/18 2	10468079	ARC	117-469	2617	\$65.00	\$15,958.98
12/18 4	09585329	RWF	723-749	1251	\$110.00	\$15,848.98
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12/18 255	10475261	ARC	4147-46	8021	\$40.00	\$15,628.98
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12/19 85	10067331	1577-172 MJW		9204	-\$55.00	\$14,995.98
12/19 144	09722381	RWF	723-962	1201	\$86.00	\$14,909.98
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12/22 3	10275548	723-1350 JSP		9204	-\$30.00	\$13,989.98
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12/23 10	10469601	ARC	613-77	1615	\$90.00	\$13,619.98
12/24 5	10631965	4293-4 ARC		9204	-\$450.00	\$14,069.98
12/24 17	09453718	BJ	249-107	1202	-\$54.00	\$14,123.98
12/24 18	09453718	BJ	249-107	1251	-\$110.00	\$14,233.98
12/24 78	REPLENISHMENT			9204	-\$10,000.00	\$24,233.98
12/29 12	10631965	4293-4 ARC		2202	\$90.00	\$24,143.98
12/29 39	10139639	LSN	2635-110	1801	\$770.00	\$23,373.98
12/29 382	10468073	GRT	117-470	2617	\$65.00	\$23,308.98
12/30 1	10399326	ARC	117-447	1614	\$172.00	\$23,136.98
12/30 4	09604158	4380-102 WFG		2253	\$475.00	\$22,661.98
12/30 9	09501270	RWF	263-2063	1251	-\$110.00	\$22,771.98
12/30 14	76221103	3438-243 TFP		8521	\$40.00	\$22,731.98
12/31 1	10139639	LSN	2635-110	1460	\$130.00	\$22,601.98
12/31 51	09530732	LSN	36-1339	8001	\$30.00	\$22,571.98
12/31 164	1813505	*		6205	\$100.00	\$22,471.98
12/31 165	1813505	*		6201	\$400.00	\$22,071.98

START	SUM OF	SUM OF	END
BALANCE	CHARGES	REPLENISH	BALANCE
\$14,813.98	\$14,333.00	\$21,591.00	\$22,071.98

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Date:

December 3, 2003

By:

Willem F. Gadano, Registration No. 37,136

Docket No.: 4380-102 (formerly 045112-0085)

COPY**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of)

Steven M. BESSETTE)

Serial No.: 09/604,158)

Group Art Unit: 1651

Filed: June 27, 2000)

Examiner: Patricia Patten

For: PESTICIDAL COMPOSITIONS)
CONTAINING PLANT ESSENTIAL OILS)
AGAINST DUST MITES)**AMENDMENT AND REPLY**Honorable Commissioner for Patents
Washington, DC 20231

Dear Sir:

This paper is being filed in response to an Office Action dated 03 June 2003. Please grant a **three-month extension of time** for entry of this communication. Please charge the **small entity extension of time fee** to Deposit Account No. **14-1140**.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Application No. 09/604,158
Attorney Docker No. 4380-102

IN THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the above-captioned patent application:

Claims 1-10 (Canceled)

Claim 11 (Currently Amended) A method for killing or controlling house dust mites, which comprises

applying to a house dust mite or the a locus where control of house dust mites is desired, a pesticidally-effective amount of the a composition of claim 1 comprising an active ingredient and a pesticidally-acceptable carrier, wherein the active ingredient is phenyl ethyl propionate.

Claims 13-33 (Canceled)

Claim 34 (new) The method of claim 11, wherein the active ingredient further comprises benzyl alcohol.

Claim 35 (new) The method of claim 11, wherein the active ingredient further comprises eugenol.

Application No. 09/604,158
Attorney Docket No. 4380-102

REMARKS

Claims 11, 34 and 35 are pending. Claim 1 and withdrawn claims 7, 12-13 and 16-33 are canceled without prejudice to, or disclaimer of, the subject matter they contain. Applicants respectfully reserve the right to file continuing applications for canceled and/or disclosed subject matter. Claim 11 is amended and claims 34 and 35 are added to encompass infringing subject matter. No new matter has been added.

The Rejection Under 35 U.S.C. §102(e)

The Office Action states that claim 1 remains rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bessette et al (U.S. Patent No. 6,183,767) for the reasons of record in the prior Office Action. Applicant has canceled claim 1, thereby rendering this rejection moot.

The Rejection Under 35 U.S.C. §103(a)

The Office Action rejects claims 1 and 11 under 35 U.S.C. §103(a) as allegedly being unpatentable over Franklin et al. (U.S. 6,130,253) in view of Wolf et al. (EP 475253). Applicant respectfully traverses this rejection for at least the following reasons.

Franklin merely discloses pesticides for the extermination of terrestrial arthropods comprising formulations of a combination of terpenes in aqueous solutions which may be used together with citral. Wolf merely discloses compositions for controlling house mites comprising menthol. Neither Franklin nor Wolf discloses or suggests methods of using compositions comprising phenyl ethyl propionate as an active ingredient, let alone phenyl ethyl propionate in

Application No. 09/604,158
Attorney Docket No. 4380-102

combination with benzyl alcohol or eugenol, as in the presently claimed invention. Thus

Applicant respectfully requests reconsideration and withdrawal of this rejection.

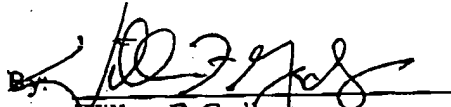
CONCLUSION

If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), the please contact the undersigned attorney at the telephone number listed below.

Please grant any extensions of time deemed necessary. The Commissioner is hereby authorized to charge any deficiency in the small-entity fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper filed hereafter) to Deposit Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Willem F. Gadlano
Reg. No. 37,136

WFG:ewm
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4057
Facsimile: (703) 816-4100

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Date:

December 3, 2003

By:


Willem F. Gadlano, Registration No. 37,136